

# State of South Dakota

## EIGHTY-FIRST SESSION LEGISLATIVE ASSEMBLY, 2006

547M0547

### HOUSE ENGROSSED NO. **HB 1132** - 02/08/2006

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives Hanks, Boomgarden, Brunner, Buckingham, Davis, Garnos, Glenski, Howie, Kraus, Krebs, McCoy, Novstrup, Rausch, Rhoden, Turbiville, Van Etten, and Weems and Senators Adelstein, Abdallah, Broderick, Koskan, McCracken, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to create immunity for reporting prenatal alcohol or  
2 substance abuse.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 34-23B be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any physician, physician's assistant, nurse, nurse practitioner, nurse midwife, counselor,  
7 social worker, licensed or registered child welfare provider, employee or volunteer of a domestic  
8 abuse center, chemical dependency counselor, or safety sensitive position as defined in  
9 subdivision 23-3-64(2) who provides services to a pregnant woman may make a referral to a  
10 prevention or treatment program accredited pursuant to chapter 34-20A if the provider has  
11 information that a pregnant woman is engaging in the abusive use of alcohol or use of any  
12 controlled drug or substance not lawfully prescribed by a practitioner as authorized by chapter  
13 22-42 or 34-20B. Any such provider, who, in good faith, makes a referral to a prevention or  
14 treatment program accredited pursuant to chapter 34-20A of a pregnant woman engaging in



1 abusive use of alcohol, abusive use of a lawfully prescribed controlled substance, or use of any  
2 controlled drug or substance not lawfully prescribed by a practitioner as authorized by chapter  
3 22-42 or 34-20B, is immune from any liability, civil or criminal, that might otherwise be  
4 incurred or imposed, and has the same immunity with respect to participation in any judicial  
5 proceeding resulting from the referral. This immunity also extends to any public official who  
6 in good faith is involved in the investigation of such conduct or to any person described in this  
7 section who in good faith cooperates with any public official in an investigation. Any referral  
8 pursuant to this section is permissive and nothing in this section requires the making of any  
9 referral.